

1 LOCKE LORD BISSELL & LIDDELL LLP  
MICHAEL V. POWELL (TX SBN 16204400) (*pro hac vice* admission pending)  
2 mpowell@lockelord.com  
2200 Ross Avenue, Suite 2200  
3 Dallas, Texas 75201-6776  
Telephone: (214) 740-8520  
4 Facsimile: (214) 756-8520

5 COOPER, WHITE & COOPER LLP  
STEPHEN KAUS (SBN 57454)  
6 skaus@cwclaw.com  
JIE-MING CHOU (SBN 211346)  
7 jchou@cwclaw.com  
201 California Street, 17<sup>th</sup> Floor  
8 San Francisco, California 94111  
Telephone: (415) 433-1900  
9 Facsimile: (415) 433-5530

10 Attorneys for Defendant, American Airlines, Inc.

11

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

14

15 KATHLEEN HANNI, individually and on  
behalf of all others similarly situated,

16 Plaintiff,

17 vs.

18 AMERICAN AIRLINES, INC., and DOES 1  
19 through 20, inclusive,

20 Defendants.

21

CASE NO. C08-00732CW

**NOTICE OF MOTION AND MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT BY  
DEFENDANT AMERICAN AIRLINES,  
INC.**

**Fed. R. Civ. Pro. 9(b) & 12(b)(6)**

Date: March 27, 2008

Time: 2:00 p.m.

Courtroom: 2, 4<sup>th</sup> Floor

22

23

24 PLEASE TAKE NOTICE that on March 27, 2008, at 2:00 p.m. in the courtroom of the  
25 Honorable Claudia Wilken at the United States Courthouse located at 450 Golden Gate Avenue,  
26 San Francisco, California, defendant American Airlines, Inc. ("American"), will and hereby does  
27 move pursuant to Federal Rules of Civil Procedure 12(b)(6) to dismiss plaintiff's Class Action  
28 Complaint for False Imprisonment, Intentional Infliction of Emotional Distress, Negligence,  
Breach of Contract, and Intentional Misrepresentation and prayer for relief (the "Complaint") for

1 failure to state a claim upon which relief can be granted.

2 American makes this motion on the grounds that:

3 (1) Field preemption by the Federal Aviation Act of 1958 ("FAA") and its implementing  
4 Federal Aviation Regulations ("FARs"), which preempt the field of passenger health and safety  
5 onboard commercial aircraft;

6 (2) Express preemption under the Airline Deregulation Act ("ADA"), which prohibits  
7 states from "enact[ing] or enforc[ing] a law, regulation, or other provision having the force and  
8 effect of law related to a price, route, or service of an air carrier," 49 U.S.C. § 41713(b)(1);

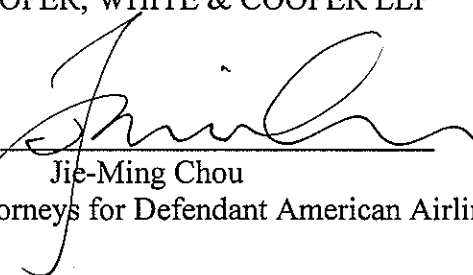
9 (3) The Complaint fails to state a claim upon which relief can be granted pursuant to  
10 Texas state law; and

11 (4) Plaintiff's alleged fraud claim fails to meet the particularity requirements of Fed. R.  
12 Civ. P. 9(b).

13 This motion is based on this Notice of Motion and Motion, the Memorandum of Points and  
14 Authorities, and (Proposed) Order filed herewith, and upon other such matters as may be presented  
15 to this Court.

16 DATED: February 19, 2008

COOPER, WHITE & COOPER LLP

17 By:   
18 Jie-Ming Chou  
19 Attorneys for Defendant American Airlines, Inc.

**PROOF OF SERVICE**

I am a resident of the State of California. I am over the age of eighteen years, and not a party to this action. My business address is 201 California Street, Seventeenth Floor, San Francisco, California 94111-5002.

On February 19, 2008, I served the following document(s):

1. **NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT BY DEFENDANT AMERICAN AIRLINES, INC.**
2. **MEMORANDUM OF POINTS & AUTHORITIES**
3. **DECLARATION OF JOHN TERRELL IN SUPPORT OF DEFENDANT AMERICAN AIRLINES, INC.'S MOTION TO DISMISS**
4. **PROPOSED ORDER**

on each of the parties listed below at the following addresses:

Law Offices of Paul S. Hudson P.C.  
4411 Bee Ridge Road #274  
Sarasota, Florida 34233

David G. Ramos, Esq.  
Law Offices of David G. Ramos  
3266 Villa Lane  
Napa, California 94558

**BY FIRST CLASS MAIL:** I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified above, as to each of the parties identified in the above service list, a true copy of the above-referenced document(s) were placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid; and on that same date that envelope was placed for collection in the firm's daily mail processing center, located at San Francisco, California following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 19, 2008, at San Francisco, California.

  
Gina R. Rivera